IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

Bail Appl..No. 6207 of 2007(B)

ST.482/2006 of J.M.F.C.,MAVELIKKARA

.....

PETITIONER/ACCUSED

M.A.BALRAJ,
AGED 50 YEARS,S/O. M.K.ARJUNAN
NITHYA KALYANI,THOOPPUMPADI, KOCHI,
ERNAKULAM.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: STATE

STATE OF KERALA
REP.BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA
ERNAKULAM,STATION HOUSE OFFICER,
THOPPUMPADI POLICE STATION.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 08/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6207 OF 2007

Dated this the 8th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution under Sec.138 of the Negotiable Instruments Act. The petitioner had entered appearance through counsel. Consequent to the non-appearance of the petitioner, a warrant of arrest has been issued by the learned Magistrate against the petitioner. The case now stands posted to 15/10/07.

2. According to the petitioner, he is absolutely innocent. His absence was not wilful or deliberate. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. The petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and

expeditiously. It is, in these circumstances, prayed that directions under Sec.438 and/or Sec.482 of the Cr.P.C. may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

4. There shall be a direction that the warrant of arrest issued against the petitioner shall not be executed before 15/10/07. The petitioner shall on or before that date appear before the learned Magistrate and seek regular bail.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge